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2d Session }

SENATE

{ REPORT
104-376

TALLGRASS PRAIRIE NATIONAL PRESERVE ACT OF 1995

SEPTEMBER 30, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 695]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 695) to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This subtitle may be cited as the “Tallgrass Prairie National Preserve Act of 1996”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this subtitle; and

(B) to manage the ranch in order to—

- (i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and
 - (ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.
- (b) PURPOSES.—The purposes of this Act are—
 - (1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and
 - (2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 3. DEFINITIONS.

In this Act:

- (1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Advisory Committee established under section 7.
- (2) PRESERVE.—The term “Preserve” means the Tallgrass Prairie National Preserve established by section 4.
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (4) TRUST.—The term “Trust” means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. 4. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled “Boundary Map, Flint Hills Prairie National Monument” numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L-106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 5. ADMINISTRATION OF NATIONAL PRESERVE.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this Act, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this Act relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) LIABILITY.—

(1) LIABILITY OF THE UNITED STATES AND ITS OFFICERS AND EMPLOYEES.—Except as otherwise provided in this Act, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretary’s administration of the Preserve pursuant to this Act.

(2) LIABILITY OF LANDOWNERS.—

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) an indemnification provi-

sion by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: Provided however, that indemnification shall not exceed \$3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) UNIT OF THE NATIONAL PARK SYSTEM.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) DONATIONS.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this Act.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

- (A)(i) appropriate officials of the Trust; and
- (ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 4(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 4(b)).

(4) HUNTING AND FISHING.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) **FINANCIAL ANALYSIS.**—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. 6. LIMITED AUTHORITY TO ACQUIRE.

(a) **IN GENERAL.**—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 4(b)) and the improvements on the real property.

(b) **PAYMENTS IN LIEU OF TAXES.**—For the purposes of payments made under chapter 69 of title 31, United States Code, the property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) **PROHIBITIONS.**—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 7. ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**—There is established an advisory committee to be known as the “Tallgrass Prairie National Preserve Advisory Committee”.

(b) **DUTIES.**—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 5(q).

(c) **MEMBERSHIP.**—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agriculture interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 196 (20 U.S.C. 1141(a)) in the State of Kansas.

(d) **TERMS.**—

(1) **IN GENERAL.**—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) **REAPPOINTMENT.**—Each member may be reappointed to serve a subsequent term.

(3) **EXPIRATION.**—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) **VACANCIES.**—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(c) **CHAIRPERSON.**—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) **MEETINGS.**—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meeting shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of schedule meetings.

(g) **QUORUM.**—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) **COMPENSATION.**—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) **CHARTER.**—The recharting provisions of section 14(b) of the Federal Advisory Committee (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 8. RESTRICTION ON AUTHORITY.

Nothing in this Act shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 6(a).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Three are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 695 is to establish the Tallgrass Prairie National Preserve in the State of Kansas as a Unit of the National Park System.

BACKGROUND AND NEED

The Flint Hills area of Kansas is the location of one of the few unaltered expanses of the once vast tallgrass prairie. Tallgrass prairie once covered nearly 400,000 square miles of the North American continent. Less than one percent of this tallgrass prairie remains today, primarily in the Flint Hills.

The Z-Bar (Spring Hill) Ranch is a 10,894 acre cattle ranch, located two miles north of Strong City, in Chase County, Kansas. The Ranch contains extensive tallgrass prairie, and was originally part of two large cattle ranches which were merged in the late nineteenth-century. Historically, the typical Flint Hills ranch encompassed thousands of acres on which vast herds of cattle grazed during the summer. The Z-Bar Ranch is an example of one of the few remaining large ranches in the Flint Hills tallgrass prairie area.

Several buildings on the Z-Bar Ranch are listed on the National Register of Historic Places, including the Z-Bar Ranch house, a three-story, eleven room structure constructed of native limestone in 1881. With its mansard roof and dormer windows, the Ranch house is a unique example of Second Empire style architecture. The Ranch house and its outbuildings, which include a barn, springhouse/smokehouse, outhouse, workshop, poultry house, equipment shed and garage, form a composite group of rural buildings, built from a single material, which function as a unit.

Also listed on the National Register of Historic Places in the Fox Creek Schoolhouse, located on the ranch property, approximately one mile from the ranch headquarters complex. The Schoolhouse was built in 1882 and operated as a school between 1884 and 1930. A local organization currently operates the Schoolhouse as a museum.

In March 1991, the National Park Service completed a Special Resource Study of the Z-Bar Ranch. The purpose of the study was to determine the site's significance, suitability, and feasibility as a potential addition to the National Park System. The study concluded that the Z-Bar Ranch was suitable for inclusion in the National Park System as it depicts significant natural history, archi-

tectural, and historical themes which are not represented elsewhere within the National Park Service.

The Ranch is currently owned by the National Park Trust. The National Trust has agreed to permit the National Park Service to purchase a portion of the Ranch and manage it in order to preserve, protect, and interpret the tallgrass prairie, and the historical and cultural resources represented on the Ranch.

LEGISLATIVE HISTORY

Senators Kassebaum and Dole introduced S. 695 on April 6, 1995. The Subcommittee for Parks, Historic Preservation, and Recreation held a hearing on the bill on April 5, 1996. Senator Bond was added as a co-sponsor on May 8, 1996. Similar legislation was included as an amendment to H.R. 1296, a bill establishing the Presidio Trust. That bill passed the Senate on May 1, 1996 and is pending in conference.

This legislation is similar to S. 2412, introduced in the 103rd Congress by Senators Kassebaum, Dole and Campbell. S. 2412 was introduced on August 19, 1994. Senator Campbell was added as a cosponsor on September 30, 1994. No further action was taken.

At the business meeting on September 12, 1996, the Committee on Energy and Natural Resources ordered S. 695 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 12, 1996, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 695, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 695, the Committee adopted an amendment in the nature of a substitute. The amended bill makes technical and conforming corrections, and adds language stating that Federal resource protection and management regulations will apply on the private land within the Preserve, with the consent of the landowner. The amended bill also contains new language stating that the Secretary of the Interior will be required to prepare a financial analysis indicating how the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

The bill, as amended, includes language to create the Tallgrass Prairie National Preserve in the Flint Hills of Kansas. The Preserve would be created through a private/public partnership between the Federal government and a private conservation group. The partnership is the culmination of decades of discussions between agriculture and conservation interests who, until now, had disagreed over issues such as Federal ownership and cattle grazing as part of a tallgrass prairie preserve in Kansas. The language contained in the amended legislation is the result of consensus building and compromise between these various groups.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the “Tallgrass Prairie National Preserve Act of 1996”.

Section 2(a) contains the Congressional findings.

Section 2(b) describes the purposes of the Act as: (1) preserving, protecting and interpreting an example of a tallgrass prairie ecosystem; and (2) preserving and interpreting the historic and cultural values represented on the Spring Hill Ranch.

Section 3 provides definitions for terms used throughout the Act.

Section 4(a) establishes the Tallgrass Prairie National Preserve.

Section 4(b) describes the Preserve as consisting of approximately 10,894 acres of lands, waters and interests depicted on boundary map.

Section 5(a) directs the Secretary of the Interior (Secretary) to administer the Preserve according to laws applicable to units of the National Park System.

Section 5(b) states that with the consent of the landowner, regulations issued by the Secretary that provide for use, management, and protection will apply to private land within the boundaries of the Preserve.

Section 5(c) authorizes the Secretary, with the consent of the landowner, to construct, reconstruct, rehabilitate or develop essential buildings, structures and related facilities, including roads, trails and other interpretive facilities on non-Federal property within the Preserve.

Section 5(d)(1) limits the liability of the United States to the terms and conditions of the Federal Tort Claims Act as amended.

Section 5(d)(2) authorizes the Secretary to include an indemnification provision in any cooperative agreement with a landowner, limited to \$3 million per claimant per occurrence. Claims for personal injury or property damage caused by wanton or willful misconduct by the landowner are excluded from the provision.

Section 5(e) authorizes the Preserve as a fee area of the National Park System.

Section 5(f)(1) authorizes the Secretary of the Interior to expend Federal funds for cooperative management activities, and cooperative agreements within the preserve in order to provide for resource management and protection.

Section 5(f)(2) authorizes the Secretary to accept, retain and expend donated funds, property (other than real property) and services.

Section 5(g)(1) directs the Secretary to develop a general management plan for the Preserve and submit the plan to Congress within three fiscal years.

Section 5(g)(2) directs the Secretary, acting through the Director of the National Park Service, to consult with: (A) officials of the National Park Trust and the Tallgrass Prairie Advisory Committee; (B) adjacent land owners, and other local officials.

Section 5(g)(3) directs that the general management plan provide for: (A) maintaining and enhancing the prairie ecosystem; (B) public access and enjoyment; (C) interpretive and educational programs; (D) the application of State law concerning the maintenance of adequate fences; (E) compliance with State weed, pesticide and

animal health laws; (F) compliance with Federal and State water and waste disposal laws; (G) honoring valid and existing oil and gas leases; (H) entering into an agreement with each individual who hold current cattle grazing rights within the boundaries of the Preserve.

Section 5(g)(4) authorizes the Secretary to allow hunting and fishing on Federal lands within the Preserve.

Section 5(g)(5) directs the Secretary to prepare a financial analysis indicating how the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

Section 6(a) authorizes the Secretary to acquire not more than 180 acres of real property within the boundaries of the Preserve.

Section 6(b) Provides for payments in lieu of taxes.

Section 6(c) prohibits the acquisition of property without the consent of the landowner, and prohibits the United States from acquiring fee ownership of any lands within the Preserve other than lands described in the legislation.

Section 7(a) establishes the "Tallgrass Prairie National Preserve Advisory Committee".

Section 7 describes the duties of the thirteen person Advisory Committee, and provides an outline for the Committee's membership, terms of appointment and procedures.

Section 8 states that the Secretary of the Interior will not have the authority to regulate lands outside the boundary of the Preserve.

Section 9 authorizes the appropriation of funds as necessary to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 695, the Tallgrass Prairie National Preserve Act of 1996, as reported by the Senate Committee on Energy and Natural Resources on September 16, 1996. Assuming appropriation of the necessary amounts, CBO estimates that the federal government would spend about \$8 million to implement this bill over the next five years, including \$5 million for planning and development and \$3 million for operating expenses. Additional one-time costs of at least \$3 million (and possibly much more) and ongoing expenses of about \$1 million a year be incurred after fiscal year 2001. S. 695 could affect receipts (from contributed funds) and direct spending; therefore, pay-as-you-go procedures would apply. We expect, however, that the amount of any new receipts or resulting direct spending would not be significant. In any event, such receipts and direct spending would offset each other.

BILL PURPOSE

S. 695 would establish the Tallgrass Prairie National Preserve on the grounds of the Spring Hill Ranch in Kansas. The National Park Service (NPS) would administer the preserve as a unit of the National Park System but would only be authorized to acquire, by donation, 180 acres of the 10,894-acre site. The remaining land would be operated and maintained by the NPS through a cooperative agreement with the National Park Trust, the current owner of the ranch. S. 695 would direct the NPS to prepare a general management plan for the preserve within three years of the bill's enactment. The bill would establish a 13-member advisory committee to assist in developing the plan and managing the preserve.

Section 5 of the bill would authorize the NPS to accept and spend nonfederal contributions of funds, personal property, and services for the purpose of implementing the legislation.

Finally, S. 695 would authorize the appropriation of whatever sums are necessary to carry out the legislation, including funds to develop, interpret, and manage nonfederal lands within the preserve.

FEDERAL BUDGETARY IMPACT

CBO estimates that the NPS would spend about \$0.6 million over the next three years to prepare a management plan for the preserve and complete other needed studies and reports. Over the following several years, the agency would spend at least \$7 million (for basic visitor facilities and interpretive programs) and possibly much more (for road construction and historic restoration of ranch buildings). We estimate that costs to operate and maintain the park would be about \$0.2 million in fiscal year 1997. Annual operating and maintenance costs, which would include minor amounts for advisory committee expenses and payments to local governments in lieu of taxes on the 180 acres of land to be donated to the NPS, would gradually rise to about \$1 million by 2001.

Enacting section 5, which would allow the NPS to accept and spend contributed funds, would have no net impact on the federal budget because any new revenues collected would be offset by new direct spending. We expect that any contributions and the resulting spending would be minimal.

The above estimates are based on information provided by the NPS and the National Park Trust, and assume appropriation of the entire amounts estimated to be necessary.

MANDATES STATEMENT

S. 695 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would impose no costs on state, local or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEILL, *Director*.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 695. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 695, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 13, 1996, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 695. These reports had not been received at the time the report on S. 695 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

STATEMENT OF ROGER G. KENNEDY, DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the committee to testify on S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

We support enactment of this bill if amended according to our testimony.

S. 695 establishes as a National Preserve approximately 10,894 acres of land known as the "Spring Hill Ranch" in the Flint Hills area of Kansas. This land is covered by tall grass prairie, a uniquely North American ecosystem that once covered 400,000 square miles of North America. Less than 1 percent of this ecosystem remains, mainly in the Flint Hills. Only a small portion of the remaining tall grass prairie (approximately 3,000 acres spread throughout 32 parks) is presently contained in units of the National Park System, and none of these offer this ecosystem's natural and cultural resources as their primary interpretative theme.

In a 1991 special resource study of the Spring Hill Ranch, the National Park Service (NPS) concluded that the ranch, which includes several buildings listed on the National Register of Historic Places, is a nationally significant example of the once vast tall grass ecosystem and would be a suitable and feasible addition to the National Park System. In particular, the study noted that the ranch's grasslands are "diverse, have been minimally impacted", and "possess outstanding scenic value".

The property that would form the National Preserve is presently owned by the National Park Trust, a non-profit

corporation. Section 6 of the bill would authorize the Secretary to acquire not more than 180 acres of this land, which would be made up of two separate parcels. The ranch's buildings, which include the culturally significant house, barn, and Fox Creek School, among others, rest on 160 of the 180 acres. The remaining 20 acres would be used to build a visitor center (if deemed appropriate through our planning process) on a site yet to be determined.

The Preserve land that will not be acquired by the Secretary (approximately 10,714 acres) would be owned by the National Park Trust, or its successors. The NPS would have the authority under section 6 to acquire rights-of-way on roads not owned by the State of Kansas. Under section 5, the NPS would manage and interpret the significance of this land, pursuant to a cooperative agreement with the Trust.

The NPS supports the general concepts underlying this bill, as they will result in the protection of this valuable and important natural and cultural resource. This is why we do not object to the language in section 6 that limits our ownership in the Preserve to no more than 180 acres. We recognize that it is unusual for us to manage and protect land that we do not own, and we do not anticipate doing this except in unusual circumstances. We strongly believe, however, that, in this case, this arrangement is justified, since the land that we will own, the 180 acres, will provide us with a core of property that will enable us to competently manage and protect the entire Preserve.

In addition, we recommend a few technical amendments to the bill that would aid us in performing our stewardship function.

At the end of section 5(b) after "Preserve" insert "on private lands with the consent of the landowner". This would allow fair and equitable administration of the regulations that apply to units of the National Park System, including those dealing with fee collection, cultural and natural resource protection, and others. The regulations would apply to the entire Preserve, not just the land that is owned by the NPS, but also those lands owned by the Trust, but only with the consent of the Trust.

Section 5(c) provides that "with consent of the landowner" and section 5(c)(2) provides that the Secretary may "maintain and operate programs in connection with the Preserve." This language appears to give veto power over our management decisions to a private party when we believe the intent of this section is to authorize the NPS to undertake certain activities on private property within the boundaries of the Preserve. We recommend in section 5(c)(1) striking "on real property that is not owned by the Federal Government and is located within the Preserve" and, following "relating to" in section 5(c), inserting "private property located within" in order to clarify the intent of this section.

In section 5(d), the phrase “Notwithstanding any other provision of law” should be replaced with specific references to the statutes that should not apply. This would avoid inadvertently waiving relevant and necessary provisions of law.

In section 5(e) strike “Notwithstanding any other * * * charging” and insert “The Preserve shall be considered a unit of the National Park System for all purposes, including authority to charge”. The only authority for the NPS to charge entrance fees is contained in the Land and Water Conservation Fund Act. This amendment would make it clear that there is only one law that applies to the NPS concerning the charging of entrance fees.

In section 5(f)(2), strike “Notwithstanding any other provision of law, the Secretary may solicit,” and insert “The Secretary may”. It is not customary for the Secretary to solicit donations and, coupled with a waiver of all law, including conflict of interest provisions, this authority would unnecessarily raise opportunities for ethical or legal problems.

Section 5(g)(3)(B) calls for the NPS to provide, through the General Management Plan, public access to the Preserve “that is consistent with the conservation and proper management of the * * * resources of * * * surrounding communities.” We recommend striking “lands of adjoining landowners, and surrounding communities” and inserting “and is coordinated with plans or surrounding communities and adjoining landowners”. This section, as written, asks us to make determinations about the level of conservation and management for the resource of surrounding communities. These issues fall beyond the scope of our authority as a Federal agency, and are more appropriately subjects for State and local governmental bodies. If this bill is enacted, we would certainly be willing to work with the governmental units and adjacent land owners.

Section 5(g)(3)(H) requires the Secretary to offer to enter into agreements with individuals that hold grazing rights within the Preserve. We recommend amending this language by striking “offer” and inserting “recognize the private land owners’ right” to enter into agreements so as not to interfere with the commercial relationship between the owner of the property (the National Park Trust) and the holder of the grazing rights. This would identify pre-existing grazing on private property as an acceptable use within the boundaries of the park.

We recommend deletion of section 7, which would create an Advisory Committee to oversee the management of the Preserve. An advisory committee is unnecessary because the NPS regularly solicits advice and comments from adjacent land owners and other affected parties through the general management planning process and subsequent consultations. This would particularly be the case in this cooperative arrangement. Deleting this section would also be consistent with the President’s request that Congress

show restraint in creating new statutory committees or extending existing ones beyond their stated time frame. In addition, we should note that there are a number of problems in provisions in this section, including restrictions on appointments, lack of a sunset provision, and exemptions to the Federal Advisory Committee Act.

With these technical amendments, we strongly support S. 695. Through a private/public partnership, this bill would protect for future generations a portion of an ecosystem that is an immensely significant natural and cultural resource and not currently represented as a unit of the National Park System.

Appropriation of funds for operation, development, and land acquisition would be contingent upon Federal budgetary constraints and Administration funding and land acquisition priorities.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by this bill S. 695, as ordered reported.

